

After Final Amendment B  
U.S. Appl. 10/047,902  
April 27, 2005

### **Remarks**

Applicants request reconsideration of the above-referenced patent application.

#### **I. Claim Amendments**

Applicants have canceled claims 2 and 15. Thus, claims 1, 3-6, 8-14, and 16-64 are pending. Applicants have amended claims 1, 4, 6, 9, 12, 16, 18, 25, 34, 39, and 49. All the claims, including the amendments, are shown in the previous section. Applicants submit that the amendments do not introduce any new matter. Specifically:

Claim 1 has been amended to recite the limitations of originally-filed claim 15 (which include the limitations of originally-filed claim 2).

Claim 49 has been amended to recite the limitations of originally-filed claims 7 and 15.

Other amendments rephrase the claims, correct grammatical or obvious errors, or revise the claim dependencies in view of the claim cancellations. Applicants submit that such amendments are permissible under MPEP §2163.07.

Applicants reserve the right to pursue any canceled subject matter and/or any other subject matter disclosed in this application in one or more later-filed divisional and/or continuation applications.

#### **II. Acknowledgment of subject matter not rejected in view of cited art**

Applicants acknowledge that the subject matter of claims 15-17, 19, 20, 25-33, 40-43, 46-48, and 60-64 has not been rejected.

#### **III. Response to rejection of claims 1-14, 18, 21-24, 44, and 45 under 35 U.S.C. §103(a) in view of Lambert et al. and Kunz et al. (Paragraphs 4 and 5 of the Office action)**

Claims 1-14, 18, 21-24, 44, and 45 have been rejected under 35 U.S.C. §103(a) as being obvious in view of Lambert et al. (U.S. Patent No. 6,660,286) and Kunz et al. (U.S. Patent Appl. Publ. 2002/0025979). Applicants request withdrawal of this rejection.

Claim 1 has been amended to recite the limitations of claim 15. Applicants note that the subject matter of pending claim 15 has not been rejected as being obvious in view of the cited

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references. Thus, claim 1 necessarily is patentable over the cited references for the same reasons as claim 15.

Claims 2 and 7 have been canceled. Thus, this rejection is moot as to those claims.

Claims 3-6, 8-14, 18, 21-24, 44, and 45 depend from claim 1, and are therefore patentable over the cited references for at least the same reasons as claim 1.

**IV. Response to rejection of claims 1, 2, 34-39 under 35 U.S.C. §103(a) in view of Lambert et al., Kunz et al., and Broder et al. (Paragraphs 6 and 7 of the Office action)**

Claims 1, 2, and 34-39 have been rejected under 35 U.S.C. §103(a) as being obvious in view of Lambert et al., Kunz et al., and Broder et al. (U.S. Patent No. 6,395,770). Applicants request withdrawal of this rejection.

Claim 1 has been amended to recite the limitations of claim 15. Applicants note that the subject matter of pending claim 15 has not been rejected as being obvious in view of the cited references. Thus, claim 1 necessarily is patentable over the cited references for the same reasons as claim 15.

Claim 2 has been canceled. Thus, this rejection is moot as to that claim.

Claims 34-39 depend from claim 1, and are therefore patentable over the cited references for at least the same reasons as claim 1.

**V. Response to rejection of claims 1-14, 18, 21-24, 44, and 45 under 35 U.S.C. §103(a) in view of Straub et al. (Paragraph 8 of the Office action)**

Claims 1-14, 18, 21-24, 44, and 45 have been rejected under 35 U.S.C. §103(a) as being obvious in view of Straub et al. (U.S. Patent No. 6,610,317). Applicants request withdrawal of this rejection.

Claim 1 has been amended to recite the limitations of claim 15. Applicants note that the subject matter of pending claim 15 has not been rejected as being obvious in view of Straub et al.. Thus, claim 1 necessarily is patentable over Straub et al. for the same reasons as claim 15.

Claims 2 and 7 have been canceled. Thus, this rejection is moot as to those claims.

Claims 3-6, 8-14, 18, 21-24, 44, and 45 depend from claim 1, and are therefore patentable over the cited references for at least the same reasons as claim 1.

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**VI. Request for entry of amendments**

Applicants request that the claim amendments be entered because they place the claims in better condition for allowance, will reduce the issues on appeal, and/or only require cursory review by the Examiner. See MPEP §§714.12 & 714.13. Claim 1, for example, has been amended to incorporate the limitations from claim 15, which, in turn, was not rejected in view of the cited art. Thus, this amendment places claim 1 (and all claims depending from claim 1) in condition for allowance. Claim 49 has similarly been amended to include all the limitations of claim 1, which necessarily places claim 49 (and all claims depending from claim 49) in condition for allowance. Other amendments simply correct dependencies or grammatical or obvious errors, and require very little review by the Examiner.

**VII. Request for rejoinder of method-of-treatment claims once corresponding composition claims are found to be allowable**

Although examination is currently restricted to the composition claims, Applicants request that the corresponding method-of-treatment claims (*i.e.*, claims 49-59) be rejoined into the application to the extent that such claims have the same limitations as any allowed formulation claims. Under such a circumstance, this rejoinder is required:

Process claims which depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance.

MPEP §821.04 (emphasis added). It should be noted that amended claim 49 includes the limitations of amended claim 1. It should further be noted that claims 50-59 all depend from amended claim 49, and therefore all include the limitations of amended claim 49 as well.

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Applicants hereby request a 3-month extension to respond to the Office action, and hereby authorize the Commissioner to charge the fee for the extension to Deposit Account No. 08-0750. Applicants believe that they do not owe any additional fee in connection with this filing. If, however, Applicants do owe any such fee(s), the Commissioner is hereby authorized

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to charge the fee(s) to Deposit Account No. 08-0750. In addition, if there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. 08-0750.

Applicants submit that the pending claims are in condition for allowance, and request that this application be allowed. The Examiner is requested to call the Undersigned if any issues arise that can be addressed over the phone to expedite examination of this application.

Respectfully submitted,



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**CERTIFICATE OF FACSIMILE**

I certify that this is being sent via facsimile to (703) 872-9306 to the attention of Examiner Sheridan Snedden, Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 27, 2005.



DMG/PML